REMARKS

The Applicants do not believe that examination of the foregoing response will result in the introduction of new matter into the present application for invention. Therefore, the Applicant, respectfully, requests that the above response be entered and the claims to the present application, kindly, be reconsidered.

The Final Office Action dated November 11, 2004 has been received and considered by the Applicants. Claims 1-12 are pending in the present application for invention. Claims 1-12 are rejected by the November 11, 2004 Final Office Action.

The Final Office Action objects to Claims 4, 5, 11 and 12 due to informalities. Specifically, the Examiner states that "reference" should be --a reference-- within in Claim 4, that "comparison" should be --a comparison-- in Claims 5 and 11, and that "means" should be --the means-- in Claim 12. The foregoing amendment to the claims has corrected these oversights. The Applicant, respectfully, points out that the foregoing amendment to the claims that was made to correct these oversights has been made solely for the purpose of correcting informalities and, accordingly, should not require any further examination or searching. Therefore, the Applicant respectfully requests that this amendment be entered.

The Final Office Action rejects Claims 1, 2 and 6 under the provisions of 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,878,014 issued to Hoeven (hereinafter referred to as Hoeven).

The Examiner states that Hoeven discloses the recited elements of the rejected Claims 1, 2 and 6. In order to sustain an anticipation rejection the "identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Regarding Claim 1, the Applicant would like to, respectfully point out that Hoeven teaches the use of side spots to derive the reflection signal (see col. 5, lines 19-44). There is no mention or suggestion within Hoeven for deriving the reflection signal through the use of only a single recording state. In the Examiner's Response to Arguments the Examiner states that Hoeven discloses the using the reflection of only one state even when the other states is being written. Specifically, the Examiner states that side spot 25 in FIG. 2 of Hoeven detects

crystalline or amorphous states even when the other state is being written. The Applicant, respectfully, disagrees that Hoeven teaches this subject matter as asserted by the Examiner. Hoeven teaches that the side spots can be split off from the central spot by a half a track pitch. There is no disclosure, or suggestion, within Hoeven of any particular state being detected by side spot 25. The Applicant, respectfully, requests that the Examiner indicate (by column and line number) any specific states that are detected by side spot 25 within Hoeven. The Applicant's position is that without some disclosure or suggestion within Hoeven of which state is being detected by side spot 25, then the identical invention as recited by rejected Claim has not been shown. Without a showing of the invention in as complete detail as is contained in rejected Claim 1, this rejection must fail.

Hoeven teaches that the writing power should be inversely proportional to the reflection. The rejected claims to the present invention recite elements define the subject matter that during the writing of the states the reflection is measured of only one of the states and the measured value is used for controlling the power of the laser diode even if the other state is written. There is no disclosure, or suggestion, within Hoeven for using the reflection of only one of the states for controlling laser diode power even when the other state is written. The approach of Hoeven is a completely different approach from that recited by rejected Claim 1. The Applicants respectfully point out that the cited portions of Hoeven discuss recording in a phase change material in which the writing power is controlled to be a constant. The reflection is measured in Hoeven is measured from a side spot. Rejected Claim 1 defines subject matter for the reflection being measured from only one of the two states. This rejection is tantamount to a statement that Hoeven could possibly be operated in a manner as defined by rejected Claim 1. The Applicant, respectfully, points out that Hoeven does **not** provide any support for the assertions made in this rejection. There is no disclosure, or suggestion, within Hoeven for using only a single state to measure reflectivity. Hoeven teaches to use a side spot but makes no mention of the states that are measured by that spot. Hoeven teaches that side spots are "influenced to a lesser extent that the central spot 26 by the presence and/or absence of information patterns" (see col. 5, lines 22-25). This clearly teaches that there may be some influence from the information patterns on the side spots, although less than the central spot this influence still exists. Therefore, Hoeven teaches away from the claimed invention of using a single state. Simply put, teaching use of a side spot is not equivalent to the subject matter for

measuring reflection using a single state as recited by rejected Claim 1. Therefore, this rejection of Claim 1 is respectfully traversed.

Regarding Claim 2, the Applicant, respectfully, asserts that the subject matter defined by rejected Claim 2 is not found or suggested by Hoeven. Rejected Claim 2, defines subject matter for the reflection being measured at spots where a piece already in a highly reflecting state is overwritten with a highly reflecting state. Hoeven teaches the use of side spots to derive reflectivity. The Examiner has not indicated how the reflection derived from the side spots of Hoeven could possibly be used to perform in a manner defined by rejected Claim 2. Specifically, Claim 2 defines subject matter for the reflection being measured at spots already in a highly reflecting state that are going to be overwritten with a highly reflecting state. The Applicant, respectfully, points out that Hoeven does not teach use of the central spot (that which reads and writes) to derive reflectivity, but instead uses side spots. The Applicant asserts that it is not possible for the side spots as taught by Hoeven to derive reflectivity to also measure reflection at spots already in a highly reflective state that are going to be overwritten by another highly reflective state, for the simple reason that the side spots of Hoeven do not measure at spots that are going to be written. Accordingly, the Applicant asserts that, using the system of Hoeven, is not possible to enable the rejection as phrased in the Final Office Action. Therefore, this rejection of Claim 2 is respectfully traversed.

The Applicant would like to respectfully, point out that the rejection of Claim 1 and the rejection of Claim 2 contradict each other. The Final Office Action does not provide an explanation of how the rejections to Claim 1 and Claim 2 can both be enabled by the teachings of Hoeven. The rejection to Claim 1 (*supra*) states that Hoeven teaches detecting reflectivity from one state even when the other state is being written. However, the rejection to Claim 2 asserts that Hoeven also teaches that the reflection is measured at spots where a piece already in a highly reflecting state is overwritten with a highly reflecting state. The Applicant, respectfully, points out that Claims 1 and 2 recite subject matter that is consistent within the teachings of the present invention and not contradictory. The Applicant asserts that the rejections of Claims 1 and 2, however, are contradictory for the system taught by Hoeven. By way of illustration, the Applicant presents the following query. If Hoeven measures reflectivity from a single sate even when the other state is being written, how would it be possible for Hoeven also to measure reflection at spots already in a highly reflecting state that are going to be overwritten with a

highly reflecting state as recited by rejected Claim 2? The Applicant asserts that it is not physically possible for the system of Hoeven to operate in a manner that can provide the subject matter defined by both rejected Claim 1 and rejected Claim 2.

Claim 6 depends from Claim 1, which as previously discussed is believed to be allowable therefore Claim 6 which further narrows and defines Claim 1 is also believed to be allowable. Therefore, the rejection of Claim 6 is respectfully traversed.

The Office Action rejects Claims 1-5 under the provisions of 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,184,343 issued to Johann et al., (hereinafter referred to as Johann et al.). The Examiner's position is that Johann et al. disclose the subject matter of the rejected claims. The Examiner states that Johann et al. disclose within the front cover and the figures the subject matter for measuring only one recording state and controlling laser power responsive thereto during writing as defined by Claims 1 and 2. The Applicant, respectfully, disagrees with this position taken by the Final Office Action. Johann et al. teach increasing the power level of a laser when the reflected laser power reduces below an average level. The rejection contained within the Final Office Action simply makes a global reference to the figures and the front page of Johann et al. The Applicant, respectfully, points out that Johann et al. teach sensing for reflected laser power dropping below an average read level, that power to the laser is increased. Claim 1 recites subject matter for recording on rewritable media with two different states wherein during writing of the states a reflection is measured of only one of the states and the measured value is used for controlling the power of the laser diode even if the other state is written. The Examiner has not indicated how Johann et al. reads on rejected Claim 1 except for the global assertion that the claimed material is disclosed. The teachings of Johann et al. do not teach all the elements of the rejected claims. For example, the Examiner has not shown that Johann et al. disclose or suggest that a reflection is measured of only one of the states and the measured value is used for controlling the power of the laser diode even if the other state is written. Accordingly, this rejection is respectfully traversed.

Claim 2 defines subject matter of Claim 1 further including the reflection being measured at spots where a piece already in a highly reflecting state is overwritten with a highly reflecting state. Johann et al. teaches sample and hold of the reflected signal and determination of the average read level for the reflected signal to identify areas having impurities such as dust. There is no suggestion or disclosure for determination of specific states within Johann et al.

Regarding Claims 3, 4 and 5, these claims depend from, either directly or indirectly, and further and define Claims 1 and 2. Therefore, Claims 3, 4 and 5 are also believed to be allowable.

The Response to Arguments within the Final Office Action states that Johann et al. teach that the reflection is measured of only one state even if the other states is written. The Applicant respectfully asserts that this position expressed in the Final Office Action is without merit. There is clearly, no disclosure or suggestion of measuring the reflection of only one state if the other state is being written by Johann et al.

The Final Office Action rejects Claims 1-2 under the provisions of 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,333,909 issued to Zaima (hereinafter referred to as Zaima). The Examiner states that Zaima discloses that during the writing of the states the reflection is measured of only one of the states even if the other state is written. The Applicants, respectfully, point out that Zaima teaches that control amount of the laser power is based on the amplitude level of the information signal, specifically the amplitude of a high frequency signal or a DC component of the high frequency signal the reproduced information signal. There is no disclosure, or suggestion, within the teachings of Zaima for measuring only one of the states within the reflected signal even if the other is being written. Therefore, this rejection is respectfully traversed.

The Final Office Action rejects Claims 1-2 under the provisions of 35 U.S.C. §102(e) as being anticiapted by U.S. Patent No. 6,487,149 issued to Yokoi et al., (hereinafter referred to as Yokoi et al.). The Examiner states that Yokoi et al. disclose the recited elements of the rejected claims that during the writing of the states the reflection is measured of only one of the states and the measured value is used for controlling the power of the laser diode. The Applicants would like to, respectfully, point out that the rejected claims recite that the reflection is measured of only one of the states even if the other state is written. Yokoi et al. teach optimal proper recording power in accordance with a non-match portion or a match portion of the data signal. The teachings of Yokoi et al. do not disclose, or suggest, the reflection is measured of only one of the states and the measured value is used for controlling the power of the laser diode as recited by the rejected claims. The Applicants would like to, respectfully, point out that Yokoi et al. employ wobble/prepit detection that is not at all similar to the reflection being measured for only one of the states and the measured value then used for controlling the power

of the laser diode as recited by the rejected claims. Therefore, this rejection is respectfully traversed.

The Final Office Action rejects Claims 1-2 under the provisions of 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,600,712 issued to Matsui et al., (hereinafter referred to as Matsui et al.). The Examiner states that Matsui et al. teach the elements of the rejected claims. The Applicant, respectfully, points out Matsui et al. teach receiving reflection light during a period of time immediately after irradiation changes from the recording power to a non-recording power. The Applicant further points out that receiving reflection light during a period of time immediately after irradiation changes from the recording power to a non-recording power as taught by Matsui et al is not equivalent to the reflection being measured for only one of the states and the measured value and then used for controlling the power of the laser diode even when the other state is being written as recited by the rejected claims. Moreover, Matsui et al states that the recording power of the irradiation is controlled according to the state of the recorded mark (see column 3, lines 32-36) which is directed towards an entirely different premise than the subject matter defined by the rejected claims of measuring only one of the states and using the measured value for controlling the power of the laser diode even when the other state is being written. Therefore, this rejection is respectfully traversed.

The Applicant, respectfully, points out that there are several individual references for which the Examiner has made anticipation rejections for the present invention. In each of these anticipation rejections the Examiner states that the cited reference teaches that during writing of the states a reflection is measured of only one of the states and the measured value is used for controlling the power of the laser diode even if the other state is written. The Applicant has traversed each of these anticipation rejections. There is no a single mention, suggestion or motivation for a person skilled in the art for measured of only one of the states during writing and using the measured value for controlling the power of the laser diode even if the other state is written. The Applicant is of the opinion that the fact that not a single of these cited references, alone or in combination, teach or suggest the measuring of only one of the states during writing and using the measured value for controlling the power of the laser diode even if the other state is being written, clearly illustrate the allowability of Claims 1-5 over these references.

The Final Office Action rejects Claims 7-11 under the provisions of 35 U.S.C. §103(a) as being obvious over Johann et al. in view of U.S. Patent No. 4,858,219 issued in the names of Yoshikawa (hereinafter referred to as Yoshikawa), U.S. Patent No. 5,406,540 issued in the names of Longman et al. (hereinafter referred to as Longman et al.) and further in view of U.S. Patent No. 5,029,023 issued in the names of Bearden et al. (hereinafter referred to as Bearden et al.). The Examiner reiterates the position that that Johann et al. disclose the subject matter of Claim 1-5 for measuring only one recording state during writing and controlling laser power to be a measured value of the reflection even if the other state is being written. As previously discussed, the Johann et al. teach increasing the power level of a laser when the reflected laser power reduces below an average level. Further as previously discussed, the Examiner has not indicated how Johann et al. reads on rejected Claims 1-5 except for the global assertion that the claimed material is disclosed by the figures and the front page of Johann et al.

The Examiner admits that Johann et al. do not disclose the means for controlling power as described in the specification for the present invention, and the functional equivalents thereof. The Examiner's position is that Yoshikawa, Longman et al., and Bearden et al. teach the means for controlling power as recited by rejected Claim 7-11. The Applicant, respectfully, points out that rejected Claim 7-11 define the subject matter of means for controlling the power of the laser diode to be a measured value of the reflection of only one of the states even if the other state is written. Neither, Yoshikawa, Longman et al. nor Bearden et al. teach the means for controlling power as recited by rejected Claim 7-11. Therefore, there are recited elements within rejected Claims 7-11 that are not found within the cited references. Accordingly, this rejection is respectfully traversed.

The Final Office Action rejects Claim 12 under the provisions of 35 U.S.C. §103(a) as being obvious over Johann et al. in view Yoshikawa, Longman et al. and Bearden et al. and further in view of Hoeven. The Examiner admits that the combination of Johann et al. in view Yoshikawa, Longman et al. and Bearden et al. do not disclose or suggest that the means for measuring measures the reflection when a highly reflective state is written. The Examiner's position is that Hoeven teaches this feature. The Applicant respectfully, points out that Claim 12 depends from and further narrows and defines Claim 7. As previously discussed Claim 7 is believed to be allowable. Therefore, Claim 12 is also believed to be allowable.

Applicant is not aware of any additional patents, publications, or other information not previously submitted to the Patent and Trademark Office which would be required under 37 C.F.R. 1.99.

In view of the foregoing amendment and remarks, the Applicant believes that the present application is in condition for allowance, with such allowance being, respectfully, requested.

Respectfully submitted,

By _____

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